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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Julia J. Dibner et al.

Art Unit 1645

Serial No. 09/708,918

Filed November 8, 2000

Confirmation No. 2670

For PREPARATION AND METHOD FOR PREVENTION OF COCCIDIOSIS

Examiner Duffy, Patricia Ann

March 22, 2002

LETTER TO THE PATENT AND TRADEMARK OFFICE

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS,

SIR:

In response to the Office action dated January 22, 2002, the time for response to which is extended to March 22, 2002 under 37 C.F.R. §1.136(a) by submission of the accompanying fee, Applicant respectfully traverses the restriction requirement and requests reconsideration on the following grounds.

Restriction to one of the following groups has been required:

- I. Claims 1-10 and 25-27, drawn to a preparation of live sporocysts, classified in class 424, subclass 93.1.
- II. Claims 11-24, drawn to a preparation of live sporulated oocysts that have been treated to disrupt the cell wall of the oocyst, classified in class 424, subclass 93.1.
- III. Claims 28-37 and 52-54, drawn to methods of prevention or treatment comprising egg yolk sack administration of live sporocysts, classified in class 424, subclass 826.
- IV. Claims 38-51, drawn to methods of prevention or treatment comprising egg yolk sack administration of live sporulated oocysts that have been treated to disrupt the cell wall of the oocyst, classified in class 424, subclass 826.

Applicants submit that examination of all four Groups will require substantially the same search, and ultimate consideration of substantially the same art. Thus, administrative economy will be promoted by having all claims examined in one application.

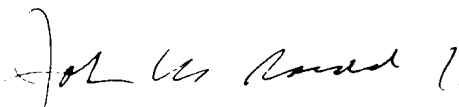
Furthermore, restriction is not proper when claims include the same essential distinguishing feature. M.P.E.P. § 806.05(d). All four Groups share the feature of a vaccine and method of using the vaccine, that involve administration via the yolk sack. Thus, the vaccine and methods for use thereof utilize small amounts of coccidial protozoa to effectuate vaccination. Because all claim Groups require the same element common to plural groups, restriction is not proper and should be withdrawn.

Applicants note that the designation of a particular claim element as common to plural groups for purposes of restriction does not constitute a narrowing construction nor does such a designation constitute an amendment of the claims. Accordingly, the compounds and methods remain entitled to their full scope of equivalents.

In view of the foregoing, consideration and allowance of claim 1-54 is respectfully requested.

In response to the restriction requirement, Applicants provisionally elect Group I, claims 1-10 and 25-27 for prosecution.

Respectfully submitted,



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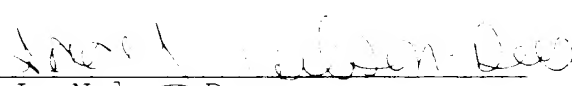
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CERTIFICATE OF MAILING

certify that this Response to Restriction Requirement concerning application Serial No. 09/708,913 is being deposited with the United States Postal Service as Express Mail No. EV015168064US, postage prepaid, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D. C. 20231 on this 22nd day of March, 200.

  
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Tracy L. Nelson-Dees